

1 **SAO**
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13 WALGREEN CO.

9 UNITED STATES DISTRICT COURT
10 FOR THE DISTRICT OF NEVADA

11 MARIA DE LA LUZ MARTINEZ,
12 Plaintiff,

13 vs.

14 WALGREEN CO., a foreign
15 corporation; DOES I through X,
16 inclusive and ROE CORPORATIONS
17 XI through XX, inclusive,
18 Defendant.

Case No.: 2:18-cv-01356-JCM-PAL

STIPULATED PROTECTIVE ORDER

18 The parties in this action hereby submit the following
19 Stipulation and Proposed Protective Order (the "Order") to govern
20 the disclosure of allegedly confidential information in this
21 action:
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23 1. The purpose of this Order is to allow the parties to have
24 reasonable access to information while protecting their
25 confidential information from public disclosure. The parties agree
26 that speedy discovery will be facilitated by the entry of this
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1 Order and accordingly stipulate to and petition the Court to enter
2 this proposed Order.

3 2. As used herein, the term "Confidential Information" shall
4 mean and include information contained or disclosed in any
5 materials, including documents, portions of documents, answers to
6 interrogatories, responses to requests for admissions, trial
7 testimony, deposition testimony, and transcripts of trial testimony
8 and depositions, including data, summaries, and compilations
9 derived therefrom, that a party reasonably and justifiably believes
10 to constitute or contain their confidential information,
11 proprietary business information, their information deemed
12 confidential under federal or state statutes, information protected
13 by the constitutional right to privacy, or other information of a
14 particularly confidential or proprietary business nature.
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16 3. The term "counsel" shall mean outside counsel of record,
17 and other attorneys, paralegals, secretaries, and other support
18 staff employed in the law firms of Ranalli Zaniel Fowler & Moran,
19 LLC and Heaton & Associates, PLLC.
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21 4. Nothing in this Order shall constitute an acknowledgment
22 by any party that any particular document or information designated
23 as Confidential Information under the provisions herein in fact
24 constitutes legally protected proprietary information, information
25 protected from disclosure by federal or state statutes and
26 regulations, and/or private information. Neither the fact of the
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1 requested designation nor the failure of any other party to object
2 to the designation shall be interpreted or may be cited as creating
3 any presumption or proof of the documents or information as legally
4 protected, confidential, or otherwise protected in any way.

5 5. Whenever a party or third-party to this action provides
6 to any party to this action material which that party or third-
7 party believes contains, constitutes, or discloses Confidential
8 Information, and should be subject to this Protective Order, such
9 producing party or third-party shall mark each page containing
10 Confidential Information (and only those pages) with a legend
11 substantially as follows: "CONFIDENTIAL." In the case of
12 Confidential Information in a non-paper medium (e.g., videotape,
13 computer disc, etc.), the notation "CONFIDENTIAL" shall be affixed
14 to the outside of the medium or its container to give clear notice
15 of the designation.
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17 6. Except by leave of Court, no party shall: (a) use any
18 other party's or third-party's Confidential Information for any
19 purpose other than in connection with the preparation, trial, and
20 appeal, including any retrials, of this action; or (b) disclose any
21 other party's or third party's Confidential Information to any
22 person not authorized to receive it, as provided herein. However,
23 nothing shall prevent disclosure beyond the terms of this Order if
24 the party designating the information as Confidential Information
25 consents in writing to such disclosure.
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1 7. For purposes of the preparation, trial, and appeal of
2 this action, and subject to this Order, a party may disclose
3 another party's or third-party's Confidential Information marked
4 "CONFIDENTIAL" only to the following "Qualified Persons":

5 a. Attorneys of record in this litigation, and employees of
6 such attorneys, including litigation support staff and in-house
7 counsel, to whom it is necessary that Confidential Information be
8 disclosed in order to effectuate the attorneys' representation of
9 their respective clients in this action;
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11 b. The parties, or in the case of an entity, designated
12 executives of the entity who are required to participate in policy
13 discussions;

14 c. Technical personnel of the parties with whom Counsel for
15 the parties find it necessary to consult, in the discretion of such
16 counsel, in preparation for trial of this action;
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18 d. Experts designated or consulted by the parties concerning
19 this action, provided that such expert has completed and signed the
20 "Confidentiality Statement" set forth at the end of this Order;

21 e. Witnesses, including deponents at a deposition;

22 f. The Court, court staff, deposition reporters, and
23 videographers;

24 g. Any other person whom the Court deems necessary to be
25 privy to any Confidential Information, with the party seeking
26 disclosure of Confidential Information to any such person having
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1 the burden of proving by a preponderance of the evidence that such
2 disclosure is reasonably necessary, provided that prior to
3 disclosure of any Confidential Information to any such person, each
4 such person has completed and signed a Confidentiality Statement.

5 8. When material disclosed during a deposition is designated
6 as Confidential Information at the time testimony is given, the
7 reporter shall mark the face of the transcript with "PORTIONS OF
8 THIS TRANSCRIPT ARE DESIGNATED AS CONFIDENTIAL- SUBJECT TO
9 PROTECTIVE ORDER," or substantially similar language.
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11 9. Whenever a deposition taken on behalf of any party
12 involves a disclosure of Confidential Information of any party:

13 a. That deposition or portions thereof shall be designated
14 as containing Confidential Information subject to the provisions of
15 this Order; such designation shall be made on the record whenever
16 possible; however, failure of counsel to designate testimony of
17 exhibits as confidential on the deposition record shall not
18 constitute a waiver of the confidentiality of the testimony or
19 exhibits, provided that within ten (10) calendar days following the
20 completion and delivery of the deposition transcript to such
21 counsel, counsel shall designate in writing specific portions of
22 the deposition transcript or exhibits as Confidential Information
23 "CONFIDENTIAL"; and
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25 b. The disclosing party shall have the right to exclude from
26 attendance at said deposition, during such time as the Confidential
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1 Information is to be disclosed, any person other than the deponent,
2 counsel (including their staff and associates), the court reporter,
3 and the person(s) agreed upon pursuant to paragraph 7, above.

4 10. All Confidential Information designated as "CONFIDENTIAL"
5 shall not be disclosed by the receiving party to anyone other than
6 those persons designated herein and shall be handled in the manner
7 set forth herein and, in any event, shall not be used for any
8 purpose other than in connection with this litigation, unless and
9 until such designation is removed either by agreement of the
10 parties, or by order of the Court.

12 11. With respect to material designated "CONFIDENTIAL", any
13 person indicated on the face of the document to be its originator,
14 author or a recipient of a copy thereof, may be shown the same.

15 12. All information which has been designated as
16 "CONFIDENTIAL", by the producing or disclosing party, and any and
17 all reproductions thereof, shall be retained in the custody of the
18 counsel for the receiving party identified in paragraph 3 above,
19 except that independent experts authorized to view such information
20 under the terms of this Order may retain custody of copies such as
21 are necessary for their participation in this litigation.

23 13. No party shall be responsible to another party for
24 disclosure of Confidential Information under this Order if the
25 information in question is not labeled or otherwise identified as
26 such in accordance with this Order.
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1 14. Upon final termination of this action, including any and
2 all appeals and absent any further stipulation or Court order,
3 counsel for each party shall, upon request of the producing party,
4 return all Confidential Information to the party that produced the
5 information, including any copies, excerpts, and summaries thereof,
6 or shall destroy same at the option of the receiving party, and
7 shall purge all such information from all machine-readable media on
8 which it resides. Notwithstanding the foregoing, counsel for each
9 party may retain all pleadings, briefs, memoranda, motions, and
10 other documents filed with the Court that refer to or incorporate
11 Confidential Information, and will continue to be bound by this
12 Order with respect to all such retained information. Further,
13 attorney work product materials that contain Confidential
14 Information need not be destroyed, but, if they are not destroyed,
15 the person in possession of the attorney work product will continue
16 to be bound by this Order with respect to all such retained
17 information.
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20 15. Nothing in this Order shall restrict a party to this
21 litigation from sharing with other persons any documents or
22 information not obtained through discovery in this action.

23 16. If any party to this litigation at any stage of these
24 proceedings disagrees with the designation of any information as
25 Confidential Information, the parties shall first try to resolve
26 such disputes in good faith between themselves. If the dispute
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1 cannot be resolved, the party objecting to the designation of any
2 information as Confidential Information may seek appropriate relief
3 from the Court by way of an ~~ex parte application~~, or noticed motion
4 ~~if the Court will not address the matter on an ex parte basis~~, with
5 confidential documents submitted under seal (see # 28), and the
6 party designating information as Confidential Information shall
7 have the burden of proving by a preponderance of the evidence that
8 such designation was proper. However, all parties and persons bound
9 by this Order shall continue to treat the disputed material as
10 Confidential Information until the issue is resolved by the Court.
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12 17. If a party, through inadvertence, produces any
13 Confidential Information without labeling or marking or otherwise
14 designating it as such in accordance with this Order, the
15 designating party may give written notice to the receiving party
16 that the document or thing produced is deemed Confidential
17 Information, and that the document or thing produced should be
18 treated as such in accordance with that designation under this
19 Order. The receiving party must treat the materials as
20 confidential, once the designating party so notifies the receiving
21 party. If the receiving party has disclosed the materials before
22 receiving the designation, the receiving party must notify the
23 designating party in writing of each such disclosure. Counsel for
24 the parties shall agree on a mutually acceptable manner of labeling
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1 or marking the inadvertently produced materials as "CONFIDENTIAL" -
2 SUBJECT TO PROTECTIVE ORDER.

3 18. Should any Confidential Information be disclosed, through
4 inadvertence or otherwise, to any person not authorized under this
5 Order, then the disclosing party shall promptly use its best
6 efforts to bind such person to the terms of this Order, and shall
7 promptly inform such person of the provisions of this Order and
8 secure from such person a Confidentiality Statement. The disclosing
9 party shall further promptly notify the party or non-party
10 designating the information as Confidential Information, and
11 disclose the name, address, and telephone number of the recipient
12 of the Confidential Information.
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14 19. This Order is without prejudice to any rights to object
15 to the production of documents or information on any basis, to
16 apply to the Court for a further protective order, to object to any
17 discovery request, or to apply to the Court for an order compelling
18 further discovery.
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20 20. At the time of trial, absent further stipulation or order
21 of the Court, all markings on any documents, depositions or other
22 materials that reference the designation as Confidential
23 Information shall be removed. Alternative steps shall be taken to
24 protect the alleged confidentiality of such items, without
25 disclosing to the jury that any such item has been designated as
26 Confidential Information.
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1 21. Nothing herein shall prejudice the right of any party to
2 object to the production of any discovery material on the grounds
3 that the material is protected as privileged or as attorney work
4 product.

5 22. Nothing in this Order shall bar counsel from rendering
6 advice to their clients with respect to this litigation and, in the
7 course thereof, relying upon any information designated as
8 Confidential Information, provided that the contents of the
9 information shall not be disclosed.
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11 23. This Order shall be without prejudice to the right of any
12 party to oppose production of any information for lack of relevance
13 or any other ground other than the mere presence of Confidential
14 Information. The existence of this Order shall not be used by
15 either party as a basis for discovery that is otherwise improper
16 under the Code of Civil Procedure.
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18 24. The restrictions and obligations set forth herein shall
19 not apply to any information that: (a) the parties agree should not
20 be designated Confidential Information; (b) the parties agree, or
21 the Court rules, is already public knowledge; (c) the parties
22 agree, or the Court rules, has become public knowledge other than
23 as a result of disclosure by the receiving party, its employees, or
24 its agents in violation of this Order; or (d) has come or shall
25 come into the receiving party's legitimate knowledge independently
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1 of the production by the designating party. Prior knowledge must be
2 established.

3 25. The parties may amend this Order in writing and may seek
4 to have the amendments entered by the Court as part of this Order.

5 26. This Order, upon entry by the Court, shall bind the
6 parties represented by the undersigned counsel, and the parties'
7 agents, officers, directors, employees, and representatives.

8 27. The Court may modify the terms and conditions of this
9 Order for good cause, or in the interest of justice, or on its own
10 order at any time in these proceedings. The parties prefer that the
11 Court provide them with notice of the Court's intent to modify the
12 Order and the content of those modifications, prior to entry of
13 such an order.
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28. No document shall be filed under seal unless an appropriate order is entered in accordance with the applicable Rules of Federal Procedure, the Local Rules of Practice, and applicable Ninth Circuit case law.

IT IS SO STIPULATED.

Dated: 11/6/18

HEATON & ASSOCIATES, PLLC

By: 

JARED F. HERLING, ESQ.
Nevada Bar No. 13350
8670 W. Cheyenne Ave., Ste. 120
Las Vegas, Nevada 89129
Attorney for Plaintiff
MARIA DE LA LUZ MARTINEZ

Dated: 12/31/18

RANALLI ZANIEL FOWLER & MORAN, LLC

By: 

JAMES F. HOLTZ, ESQ.
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Attorneys for Defendant,
WALGREEN CO.

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PROTECTIVE ORDER

It appearing to the Court that certain documents and other information subject to discovery in this case contain trade secrets, proprietary information, or other Confidential Information, and that the disclosures of such information outside the confines of this lawsuit could cause serious financial or competitive harm, and consequential damages, including but not limited to lost profits, and it further appearing that counsel for the parties have agreed to the entry of this Order to preserve the confidentiality of these documents and the information of defendants, this Court orders the following protective measures to be implemented in the interest of all the parties and the furtherance of justice and applies to all parties of this lawsuit.

Dated: January 8, 2019

By: 

U.S. Magistrate Judge

CERTIFICATE OF SERVICE

Pursuant to Nevada Rules of Civil Procedure 5(b), I hereby certify that I am an employee of **RANALLI ZANIEL FOWLER & MORAN, LLC**, and that on the ____ day of oCTOBER, 2018, I caused the foregoing **STIPULATED PROTECTIVE ORDER** to be served as follows:

- ☐ by placing a true and correct copy of the same to be deposited for mailing in the US Mail at Henderson, Nevada, enclosed in a sealed envelope upon which first class postage was fully prepaid; and/or
- ☐ pursuant to EDCR 7.26, by sending it via facsimile (w/out attachments); and/or
- ☐ by hand delivery to the parties listed below; and/or
- ☒ pursuant to N.E.F.C.R. Rule 9 and Administrative Order 14-2, by sending it via electronic service:

JARED F. HERLING, ESQ.
HEATON & ASSOCIATES, PLLC
8670 W. Cheyenne Ave., Ste. 120
Las Vegas, Nevada 89129
Attorney for Plaintiff

An Employee of
RANALLI ZANIEL FOWLER & MORAN, LLC